

July 29, 2021

The Honorable Kim Janey  
Office of the Mayor  
1 City Hall Square, Suite 500  
Boston, MA 02201

Dear Mayor Janey:

We are writing to urge you to withdraw the Downtown Waterfront District Municipal Harbor Plan (“Downtown MHP”) from the pending Massachusetts Department of Environmental Protection (“MassDEP”) rulemaking to amend 310 CMR 9.00: Waterways (“Waterways Regulations”). This request ideally should be made by the end of the public comment period on August 6, 2021 in order to be considered by MassDEP as part of the administrative record. Otherwise, MassDEP may not take the City’s position into account in issuing final regulations. We also note that there is currently no process proposed by MassDEP to amend or renew MHPs after they are formally promulgated.

As you aptly have observed, the pending Downtown MHP “does too little to advance our shared objectives of increasing our waterfront’s resiliency, accessibility and vibrancy,” and “deserves further scrutiny.”<sup>1</sup> This rulemaking is the appropriate forum to raise concerns about the outcome and process of the Downtown MHP.

Withdrawing the plan and restarting the planning process for this critical part of the waterfront would provide that scrutiny and allow the city to craft a better and more inclusive planning process that incorporates and centers the needs of all residents, not just a select few. This will help set the tone for equitable waterfront planning and development in all of Boston’s neighborhoods. The result could be a world-class vision for this section of the waterfront instead of a piecemeal, parcel-specific, and development-driven plan. This would be an important and enduring legacy for your administration.

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<sup>1</sup> “We have heard the criticism that the proposal to redevelop the Harbor Garage site is too tall and too dense for its surroundings. I believe the proposal does too little to advance our shared objectives of increasing our waterfront’s resiliency, accessibility and vibrancy. Contentious development proposals such as this one warrant further scrutiny. The waterfront is one of our city’s most precious public assets, and this site deserves better.” Mayor Kim Janey’s full statement to the Boston Globe (May 19, 2021).

Bostonians deserve and are legally entitled to waterfront development that serves a public purpose and protects public access to the waterfront. The state regulations protecting these rights provide for public access and activation, and they provide the leverage and voice that communities need in current and future planning processes in which the waterways rules play a part.

But the pending Downtown MHP diminishes these rights and presents the most extreme departure from those regulations ever approved. It also represents a growing and disturbing trend toward allowing developers to monetize the loss of public access and benefit through discretionary and randomly calculated lump sum payments rather than through appropriate mitigation onsite. If this plan is allowed to stand, it will create a troubling precedent for waterfront planning and development in neighborhoods all across the city. We cannot allow development on Boston's waterfront to continue to privatize the shoreline and forfeit opportunities for waterfront parks and open space, environmental justice, public access, and climate resilience.

Withdrawal of the plan also would allow the city to better incorporate climate resilience into the design of the downtown area. This issue was not at the forefront when this planning process began nearly a decade ago. The city has done a lot of work since then to identify and plan for our climate risks, but much of that work is simply not reflected in this plan. The city is also in the process of developing design and use standards for the Downtown Waterfront. Withdrawing the plan would give the city the opportunity to incorporate that work into any new development.

Your administration has a rare opportunity to correct a flawed process and flawed result, reimagine the downtown waterfront, and preserve the rights of communities across the city to have a say in this and other waterfront developments.

We ask for your leadership now in seizing this opportunity and acting on your publicly stated views on the plan. We also respectfully request an opportunity to discuss the matter with you at your earliest convenience.

Sincerely,

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Conservation Law Foundation

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